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February 1, 2024

Via ECF

Hon. Robyn F. Tarnofsky,
Daniel Patrick Moynihan United States Courthouse,
United States Courthouse,
500 Pearl St.,
New York, NY 10007-1312.

Plaintiff's application is GRANTED. Plaintiff's Letter, dated February 1, 2024 and corresponding exhibits attached thereto shall remain under seal.

The Court of the Clerk is respectfully directed to terminate ECF 43.

Dated: February 2, 2024
New York, NY

SO ORDERED


ROBYN F. TARNOFSKY
UNITED STATES MAGISTRATE JUDGE

Re: *Thales Avionics, Inc. v. L3 Technologies, Inc.*, No. 24-cv-112 (JGK)

Dear Magistrate Judge Tarnofsky:

I write on behalf of Plaintiff Thales Avionics, Inc. ("Plaintiff" or "Thales Avionics") pursuant to Rule III.E of Your Honor's Individual Practices to respectfully request leave to file under seal Plaintiff's Letter, dated February 1, 2024 ("Plaintiff's Letter"), in response to the Court's order (ECF No. 41), Exhibit A to Plaintiff's Letter ("Exhibit A"), and Exhibit B to Plaintiff's Letter ("Exhibit B") (collectively, "Confidential Documents").

Exhibit A and Exhibit B are documents that Your Honor ordered to be "treated as highly confidential with disclosure limited to outside counsel's eyes only" once produced by Defendant. ECF No. 41 at 1. Moreover, Defendant moved for its letter referring to and describing some of the contents of Exhibit A and Exhibit B (ECF No. 38) to be filed under seal because it "contains confidential and competitively sensitive information" and because the communications described therein, including Exhibit A and Exhibit B, were "made in connection with a competitive bidding process that has not yet resulted in a final sale." ECF No. 37.

"Established factors and values that can outweigh the presumption of public access include . . . business secrecy . . . and privacy interests." *Valassis Commc'ns, Inc. v. News Corp.*, No. 17-CV-7378 (PKC), 2020 WL 2190708, at *1 (S.D.N.Y. May 5, 2020). Courts have granted motions to seal commercially sensitive information, which, if disclosed, could cause competitive harm. *See, e.g., Rubik's Brand Ltd. v. Flambeau, Inc.*, No. 17-CV-6559 (PGG)

Hon. Robyn F. Tarnofsky, p. 2

(KHP), 2021 WL 1085338, at *1 (S.D.N.Y. Mar. 22, 2021) (granting motion to seal license agreements, invoices, and documents relating to marketing strategy); *Tropical Sails Corp. v. Yext, Inc.*, No. 14 CIV. 7582, 2016 WL 1451548, at *4 (S.D.N.Y. Apr. 12, 2016) (sealing exhibits that would cause defendant “competitive injury” if disclosed). *Cf. United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995) (“Commercial competitors seeking an advantage over rivals need not be indulged in the name of monitoring the courts.”).

Plaintiff has no objection to filing the Confidential Documents publicly. However, because Your Honor ordered Exhibit A and Exhibit B to be produced for “outside counsel’s eyes only,” because Defendant maintains that Exhibit A and Exhibit B is a confidential communication that contains competitively sensitive information, and because Plaintiff’s Letter describes and refers to the contents of Exhibit A and Exhibit B, Plaintiff respectfully asks that the Court provisionally grant this Motion until Defendant has an opportunity to be heard on whether the Confidential Documents should remain under seal.

CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that Your Honor enter an Order allowing Plaintiff to file the Confidential Documents under seal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M M L' followed by a horizontal line.

Mark E. McDonald

cc: All Counsel of Record (via ECF)